

90/315,196

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REMARKS

Claims 1-24 are pending in the application. Claims 1-24 have been rejected under 35 U.S.C. § 102(b) as being anticipated by the disclosure of e-mail IDS reference A1. The Applicant respectfully traverses the rejections. Of the Claims, Claims 1, 9, 15 and 24 are independent claims.

The e-mail IDS reference A1 ("e-mail") is not a printed publication under 35 U.S.C. § 102(b). The e-mail had a limited distribution and was directed to only two persons as indicated by the "to" and "cc" fields in the e-mail. This limited distribution did not make the e-mail accessible to persons concerned with the art in which the document relates. Therefore, under the rule established in MPEP 2128, the e-mail may not be considered to be a "printed publication" within the meaning of 102(b) since it was not accessible to persons concerned with the art to which the document relates. (In re Wyer, 655 F.2d 221, 227, 210 USPQ 790, 795 (CCPA 1981).)

CONCLUSION

In view of the above remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned at (978) 341-0036.

Respectfully submitted,

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Dated: 11/21/04